



30 APR 2002

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In re Application of	:	
PAGE, et al.	:	DECISION ON PETITIONS
Application No.: 09/831,207	:	
PUT No.: PCT/US99/26050	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 04 November 1999	:	
Priority Date: 06 November 1998	:	AND 37 CFR 1.47(a)
Attorney Docket No.: WDF-69436	:	
For: INTEGRATED APPARATUS FOR	:	
REMOVING POLLUTANTS FROM A	:	
FLUID STREAM IN A LEAN-BURN	:	
ENVIRONMENT WITH HEAT	:	
RECOVERY	:	

BACKGROUND

On 04 November 1999, applicants filed the international application, which claimed a priority date of 06 November 1998. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 May 2001.

On 04 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by a copy of the International Preliminary Examination Report and a copy of the International Search Report. Applicant did not provide either payment of the full U.S. basic national fee nor an oath or declaration of the inventors.

On 25 May 2001, applicants were mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) notifying applicants that the above-identified application was abandoned as to the United States for failure to provide payment of the full U.S. basic national fee by thirty months from the claimed priority date.

On 06 February 2002, applicant responded with the present petitions. A petition for revival under 37 CFR 1.137(b) and a petition under 37 CFR 1.47(a). Accompanying the petition under 37 CFR 1.47(a) was a declaration for patent application executed by joint-inventor Dr. Bradley L. EDGAR. The declaration for patent application was not executed by joint-inventors Dr. Dorrish L. PAGE and Robert J. MACDONALD, the subjects of the present petition under 37 CFR 1.47(a).

DISCUSSION

A. Petition to Revive Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was payment of the full U.S. basic national fee. Applicants have provide said payment with the present petitions.

As to Item (2), applicants have paid the \$1280.00 petition fee.

With regard to Item (3), applicants' statement that, "the entire delay in submitting item (1) above, (the basic national fee) from the due date for submitting the item until the filing of this petition, was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

Applicant having complied with the above requirements, the petition under 37 CFR 1.137(b) to revive the application is **GRANTED**.

B. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to Items (1) and (3), applicant has provided a check in the amount of \$130.00 as payment of the required petition fee. In addition, the petition states the last known addresses of the non-signing inventors.

Regarding Item (4), accompanying the petition is a declaration signed by the remaining inventor on his behalf, and on behalf of the non-signing inventors. Accordingly, Items (1), (3) and (4) have been satisfied.

As to Item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d)

Proof of Unavailability or Refusal states that, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." The declarations which accompany the petition seem to indicate that the non-signing inventors were merely provided with a copy of the declaration. There is no indication in the present petition or accompanying papers that applicant has made a bona fide attempt to present Dr. Dorrish L. PAGE and Robert J. MACDONALD with a copy of the application papers, including the specification, claims and drawings as required.

Accordingly, since applicant has failed to show that Dr. Dorrish L. PAGE and Robert J. MACDONALD were provided with a complete set of the application papers and refused to sign the application papers it is not appropriate to accept the declaration at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.137(b) is GRANTED.

Applicants' petition under 37 CFR 1.47(a) is DISMISSED.

As authorized, \$130.00 will be deducted from Deposit Account No. 19-1853 as payment of the surcharge for providing an oath or declaration of the inventors later than thirty months from the earliest claimed priority date.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. A proper reply under the renewed petition would be either 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by all inventors or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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